

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER: Nelson Jr, M.

TITLE: VEHICLE FITTING

Amendment B: REMARKS

Upon entry of the present amendments, previous Claims 25 - 48 have been canceled and new claims 49 - 68 substituted therefor. Claims 1-24 were previously canceled. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of placing certain of the claims into a proper condition for allowance and for revising other of the claims so as to distinguish the claims from the prior art.

In the Official Action, it was indicated that Claims 35 - 37 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over British Patent No. 2,197,628 in view of the Mach patent. Claim 41 was rejected under 35 U.S.C. § 103(a) as being unpatentable over British Patent No. 2,197,628 in view of the Mach patent and further in view of the Marinelli patent. Claims 42 - 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over British Patent No. 2,197,628 in view of the Kave patent and the Silbert patent. Claims 25 - 34 and 42 - 48 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Importantly, it has been indicated that Claims 38 and 40 were "objected to" as being dependent upon a rejected base claimed, but would be allowable if rewritten into an independent form. Claim 25 was indicated as being

allowable if rewritten to overcome the formality rejections. Similarly, Claims 26 - 34 and 46 - 48 are indicated as allowable if rewritten to overcome the formality rejections.

As an overview to the present reply, Applicant has revised independent Claim 25 in the form of new independent Claim 49 so as to revise the formalities in through claim language. It is now stated that the backrest is moveable to a second position in which "said" seats squab "does not obstruct a space in front of said backrest". As such, Applicant has revised the indefinite terminology indicated by the Examiner. As such, independent Claim 49 should be in a proper condition for allowance. Dependent Claims 50 - 58 correspond, respectively, to the limitations found in previous dependent Claims 26 - 34. The informalities indicated in Claims 26, 28, and 29 have been revised so as to conform with the suggestions of the Examiner.

New independent Claim 59 incorporates the limitations of previous independent Claim 35, along with the limitations of objected-to Claim 38 and the limitations of intervening Claims 36 and 37. As such, independent Claim 59 should be in a proper condition for allowance. Dependent Claims 60 - 62 correspond, respectively, to the limitations found in previous dependent Claims 39 - 41. As such, these claims should also be in a proper condition for allowance.

New independent Claim 63 reflects the limitations of previous independent Claim 42 and the limitations of dependent Claim 43. In particular, in Claim 63, the "wheelchair" is positively recited as having a pair of handles extending rearwardly of a back thereof. It is indicated that the back of the wheelchair resides against the backrest. Additionally, the pair of handles are positioned respectively adjacent opposite sides of the narrow portion of the backrest. The seatbelt is indicated as passing "through" the guide. Applicant respectfully contends that these amendments to independent Claim 42 (in the form of new Claim 63) serve to distinguish the present invention from

the prior art combination of British patent in view of the Kave and Silbert patents.

British Patent No. 2,197,628 discloses a seat as having a "a folding" squab (as shown in Figure 1). This folding squab may be unfolded so as to lie flat against the backrest (as shown in Figure 2). Since the squab of the British patent lies directly in front of the backrest, the support does obstruct the space in front of the backrest. Since the squab obstructs the space in front of the backrest, there is no way that a wheelchair can be properly positioned such that the back of the wheelchair can reside against the backrest. The British patent does not show the backrest as being broad at the top and being narrow at the bottom. As such, the backrest does not provide a structure whereby the handles of the wheelchair can be conveniently positioned adjacent opposite sides of the backrest. As such, the British patent shows a structure that would not properly accommodate a wheelchair.

In the original specification, the importance of being able to place the back of the wheelchair in contact with the backrest of the fitting of the present invention was stated in paragraph [0066] as follows:

If the vehicle is involved in a front impact the seat belts will restrain the occupant of the wheelchair. In a rear impact the occupant of the wheelchair will be restrained by the seat back, and will thus be prevented from moving rearwardly out of the wheelchair. If a very substantial force is applied to the backrest the torsion plates 6,36 will distort, absorbing energy.

Additionally, the backrest of the fitting of the present invention rests entirely against the back of the wheelchair. The benefit of this structure is that it can accommodate the handles of the wheelchair while, simultaneously, provide support to the back of the wheelchair. This benefit was recited in the original specification[0065] as follow:

It is to be appreciated that if the wheelchair is a relatively narrow wheelchair, having rearwardly extending handles which are not spaced very far apart, the handles may, nevertheless, be accommodated to either side of the narrow part 43 of the backrest 41. The backrest 41 will, however, be able to contact the whole of the spine of a seat or wheelchair occupant in the event of a rear impact.

In the British patent, the seat squab would cause any wheelchair to be positioned in a slightly spaced relationship from the backrest of the fitting. As such, in the event of an impact, the back of the wheelchair will deflect rearwardly so as to cause potential injury to the back of the occupant of the wheelchair. In other circumstances, in the British patent, the backrest is sufficiently wide so as to provide an obstruction to the handles of the wheelchair. Once again, if the handles of the wheelchair abut the backrest there is a space between back of the wheelchair and the backrest of the fitting. In the event of a rear collision, the back of the wheelchair will deflect toward the backrest of the fitting and, thereby, cause potential injury to the occupant of the wheelchair.

The Kave patent shows a safety chair apparatus that includes a seat with a support back. As can be seen in the Kave patent, the seat of this safety chair would provide an obstruction to the placement of the back of the wheelchair against the backrest of the safety chair. Furthermore, the back of the safety chair of the Kave patent has an identical width from top to bottom. Once again, this can provide an obstruction whereby the handles of the wheelchair are not able to be placed in a convenient position such that the back of the safety chair will be adjacent to the back of the wheelchair. Operationally, the safety chair of the Kave patent would not serve to prevent potential injury to the occupant of the wheelchair in the event of a rear collision. It also would fail to provide proper support to the back of the wheelchair during normal use.

The Silbert patent shows a chair back that does have a wide portion at an upper end thereof

and a narrow portion therebelow. However, the Silbert patent simply shows a chair with a seat portion that extends so as to obstruct the seat back. The chair back of the Silbert patent has an unusual curve along its length which extends inwardly so as to provide lumbar support to the person sitting on the seat. This inwardly curved portion, while comfortable in a normal seating position, would not provide proper support to the back of a wheelchair if the back of the wheelchair is placed against the back of the Silbert chair. In fact, whiplash could be exacerbated in the event of a rear collision. The seat of the Silbert patent would certainly obstruct any ability to place the back of the wheelchair against the backrest of the chair.

In combination, the British patent with the Kave patent and the Silbert patent would not show the structure of the present invention, the function of the present invention nor the advantages of the present invention. Fundamentally, each of the prior art patents has an obstruction in front of the backrest. This obstruction would prevent a wheelchair from being placed such that the back of the wheelchair was adjacent to the backrest. In the British patent and the Kave patent, the relatively wide seat back could not be arranged so as to properly accommodate the handles of the wheelchair. Furthermore, the chair back of the Silbert patent would not present a "generally planar" surface against the back of the wheelchair could be placed thereagainst. In each of the prior art patents, the effect of a rear collision with a vehicle would cause injury to the occupant of the wheelchair. The present invention, in contrast, provides a structure whereby the wheelchair can be conveniently stowed so as to provide proper support to the back of the wheelchair and to prevent injuries in the event of a rear collision. On this basis, Applicant respectfully contends that independent Claim 63, as amended herein is patentably distinguishable from the prior art.

Dependent Claims 65 - 68 herein correspond, respectively, to the limitations found in

previous dependent Claims 45 - 48. The indefinite language found in previous dependent Claim 46 (now Claim 67) has been corrected herein.

For the benefit of the Examiner and clarity in the description of the present invention, an illustration of the fitting assembly of the present invention in combination with the wheelchair has been illustrated in new Figure 8. No new matter has been added by the addition of the this drawing. References to this drawing have been incorporated in the amendments to the specification herein.

Based upon the foregoing analysis, Applicant contends that independent Claims 49, 59 and 63 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

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